

COPY

RECEIVED
FEDERAL ELECTION
COMMISSION

2011 JUL 26 AM 11: 51

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

CELA

Pre-MUR 509

DATE SUBMITTED: 9/29/10

DATE ACTIVATED: 2/7/11

EXPIRATION OF SOL: 5/12/15 to 7/15/15

SOURCE:

RESPONDENT:

BlueGreen Alliance, Inc.

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 434(c) and (g)
11 C.F.R. § 109.10

INTERNAL REPORTS CHECKED:

FEC Disclosure Reports Database

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

BlueGreen Alliance, Inc. ('BGA'), a Section 501(c)(4) group formed in 2006 as an alliance between labor unions and environmental organizations, filed a submission ('Submission') regarding its failure to timely file two FEC Form 5s (Report of Independent Expenditures Made and Contributions Received): a 24-Hour Report of Independent Expenditure and the 2010 July Quarterly Independent Expenditure Report for \$94,617.86 in independent expenditures.

BGA requested that this matter be resolved through Fast-Track Resolution ('FTR') pursuant to 72 Fed. Reg. 16,695 (Apr. 5, 2007), and we concluded that the matter was appropriate for the FTR process. *Id.* We now recommend that the Commission accept the attached, signed conciliation agreement, which includes a \$6,000 civil penalty, and close the file in this matter.

11044302024

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended, ("the Act") requires every person (other than a political committee) that makes independent expenditures in an aggregate amount or value in excess of \$250 during a calendar year to file with the Commission a verified statement or report of such expenditures. *See* 2 U.S.C. § 434(c). The timing and frequency of such filings depends on the amount of the expenditures and when they are made. *See* 11 C.F.R. § 109.10(b). Independent expenditures aggregating \$250 or more are required to be reported in accordance with the quarterly reporting schedule specified in 11 C.F.R. § 104.5(a)(1)(i) and (ii). *Id.* Independent expenditures aggregating \$1,000 or more, and made after the 20th day, but more than 24 hours before the day of an election, must be reported within 24 hours following the date on which the communication is publicly distributed. 2 U.S.C. § 434(g)(1)(A) and 11 C.F.R. § 109.10(d).

According to the Submission and disclosure reports filed with the Commission, BGA spent \$94,617.86 to print and mail 180,000 flyers advocating the defeat of Senator Blanche Lincoln and in support of candidate Bill Halter in the 2010 Arkansas Senate Democratic primary race. *See* Submission at 1. The flyers were mailed on May 11, 12, and 13, 2010, days before the primary election on May 18, 2010. *Id.* at 2. BGA acknowledges that it should have filed a 24-Hour Report within 24 hours of its expenditure, and should have filed a July Quarterly Independent Expenditure Report on or before July 15, 2010. *Id.* BGA filed both reports on September 29, 2010.

BGA acknowledges that it violated the law by not filing the required reports, and represents that it has taken remedial measures to prevent any recurrence of the errors. *Id.* at

1-2. Specifically, BGA has appointed an "FEC Compliance Officer" to ensure future compliance. *Id.* at 2. BGA states that this was the first time it had ever made an independent expenditure, that it did not realize it should have filed these reports until a few months later after discussion with counsel, and that the one-time failure to file was inadvertent and was a result of staff inexperience with the Commission's filing requirements. *Id.* It appears that BGA filed timely independent expenditure reports for a number of communications made later in the 2010 election cycle. BGA requests that the matter be resolved through pre-probable cause conciliation and the FTR process. *Id.* at 1.

III. CONCILIATION

**Pre-MUR 509 (BlueGreen Alliance, Inc.)
First General Counsel's Report**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

11044302027

IV. RECOMMENDATIONS

- 1) Open a MUR;
- 2) Accept the attached conciliation agreement with BlueGreen Alliance, Inc., prior to a finding of reason to believe;
- 3) Approve the appropriate letter;
- 4) Close the file.

Christopher Hughey
Acting General Counsel

Kathleen Guith
Acting Associate General Counsel
for Enforcement

July 26, 2011
Date

Susan L. Lebeaux
Susan L. Lebeaux
Acting Deputy Associate General Counsel
for Enforcement

Mark D. Shonkwiler
Mark D. Shonkwiler
Assistant General Counsel

Dominique Dillenseger
Dominique Dillenseger
Attorney